

REMARKSA. Request for Reconsideration

Applicants have carefully considered the matters raised by the Examiner in the outstanding Office Action but remain of the position that patentable subject matter is present. Applicants respectfully request reconsideration of the Examiner's position based on the Declaration of Mr. Hiroshi Yamazaki and the following remarks.

B. Claim Status

Claims 1 and 6-9 are presented for further prosecution. Claims 2-5 have been withdrawn from consideration. No claim amendments have been made at this time.

C. The Office Action

Claims 1 and 6-8 had been rejected as being anticipated by Nozawa (US 6,555,281). Claims 1 and 6-8 had been rejected as being anticipated by Hashimoto (US 6,610,454) considered in view of Yachi (US 5,773,185). Claim 9 had been rejected as being unpatentable over Hashimoto in view of Yachi.

Applicants had previously submitted the July 22, 2005 Declaration of Mr. Hiroshi Yamazaki to demonstrate that the examples of Nozawa and Hashimoto cited by the Examiner do not inherently have toner particles in an amount of less than 5% satisfying the diameter range of claim 1.

In the outstanding Office Action, the Examiner had placed little weight on the July 2005 Declaration for four reasons. First, the Examiner had questioned the percent error associated with the diameter measurement. Second, the Examiner had asked whether the average particle diameter (D4) of the tested samples is the same as the average particle diameter of Nozawa and Hashimoto. Third, the Examiner had asked why Mr. Yamazaki chose to employ the I type mill IDS-2 pulverizer and the Mikroplex 132 MP pneumatic classifier. Fourth, the Examiner had stated that an executed copy of the July 2005 Declaration had not been received.

With regard to the Examiner's fourth concern, Applicants note that an executed copy of the July 2005 Declaration was filed on August 2, 2005. The Private PAIR system shows that the executed Declaration was received.

Turning now to the Examiner's remaining concerns, Applicants have enclosed a second Declaration where Mr. Yamazaki answers the questions raised by the Examiner. Applicants note that the Declaration is presently unexecuted, however, it is

requested that the Declaration be fully considered since the information contained in the Declaration originated with Mr. Yamazaki and is entirely reliable. An executed copy of the Declaration will be forwarded as soon as it becomes available.

As explained in par. 3 of the enclosed Declaration, the experimental error associated with the diameter calculation was at most $\pm 0.05 \mu\text{m}$. Thus, Applicants submit that the toner particle ratios shown in Table 1 of the July 2005 Declaration demonstrates that the samples prepared in accordance with Nozawa and Hashimoto do not satisfy the diameter ratio limitation of claim 1.

The Examiner's second question concerned the average particle diameters (D4) of the samples prepared in Table 1 of the July 2005 Declaration since the Examiner relied on the average particle diameters to make his inherency rejection. Mr. Yamazaki explained in par. 4 of the enclosed Declaration that the average particle diameters (D4) of the samples shown in Table 1 of the July 2005 Declaration are the same as the average particle diameters of the samples of Nozawa and Hashimoto. It is therefore clear that the average particle diameter did not vary from the teachings of Nozawa and Hashimoto and therefore did not affect the claimed toner particle ratio.

Third, Mr. Yamazaki explained that he chose to employ the specific types of pulverizer and pneumatic since these devices are customarily used and are readily available. Mr. Yamazaki also stated that he believes that his choice of these devices did not significantly affect the test data presented in Table 1. Applicants therefore believe that Mr. Yamazaki's choice of devices did not substantially affect the test data and the results presented in the July 2005 Declaration.

Applicants therefore respectfully submit that the enclosed Declaration demonstrates that the results presented in Table 1 of the July 2005 Declaration fairly represent the teachings of Nozawa and Hashimoto. Furthermore, Applicants submit that the enclosed Declaration corroborates the fact that Nozawa and Hashimoto do not inherently teach the claimed toner particle ratio as shown in Table 1 of the July 2005 Declaration.

D. Conclusion

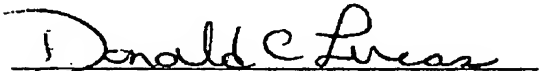
In view of the foregoing and the enclosed, it is respectfully submitted that the application is in condition for allowance and such action is respectfully requested. Should any extensions of time or fees be necessary in order to maintain this Application in pending condition, appropriate requests are

hereby made and authorization is given to debit Account # 02-2275.

Respectfully submitted,

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Encl: Unexecuted Declaration of Mr. Hiroshi Yamazaki
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